



PAUL RICHARD LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
PO BOX 1107
GREENVILLE, MAINE
04441

WALTER E. WHITCOMB
COMMISSIONER

PERMIT

SHORELAND ALTERATION PERMIT SA 1068-C AND WATER QUALITY CERTIFICATION

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by the Appalachian Mountain Club for Shoreland Alteration Permit SA 1068-C, finds the following facts:

1. Applicant: AMC Maine Woods, Inc. & AMC Woods II, LLC (collectively "AMC")
PO Box 310
Greenville, Maine 04441
2. Agent: Wright -Pierce (Attention Joseph M. McLean, P.E.)
99 Main Street
Topsham, Maine 04086
3. Date of Completed Application: August 31, 2015
4. Location of Proposal: AMC's Medawisla Wilderness Lodge on Second Roach Pond
Shawtown (TA R12 WELS), Plan 01, Lots 1 & 1.4
T1 R12 WELS, Plan 01, Lots 2.1, 2.2 & 2.3
Piscataquis County
5. Zoning: (D-RF) Recreation Facility Development Subdistrict
(P-GP) Great Pond Protection Subdistrict
(P-WL1) Wetland Protection Subdistrict
6. Affected Waterbody: Second Roach Pond, is a Resource Class 1B undeveloped accessible lake with significant scenic and fishery resources.
7. AMC's lot is developed with a waterfront commercial sporting camp. A rock dam with fish passage structure extends from the end of an existing filled fixed pier structure located on the shoreline of the site. The rock dam with fish passage structure extends across the pond onto AMC-owned land that is part of the Roaches Pond Tract Conservation Easement, which is held by the Bureau of Parks and Lands. The rock dam structure with fish passage controls the water elevation of Second Roach Pond and flow from the pond to the Roach River.

Background and Administrative History

8. On May 7, 2015, AMC signed a Settlement Agreement ratified by the Commission, which required AMC to submit a complete permit application amendment for a re-engineered rock dam with fish passage. The Settlement Agreement stipulated the following: a) the final plan shall be designed to achieve pond levels comparable to those that existed within five years immediately prior to the 2014 dam construction; b) the

NICHOLAS D. LIVESAY, EXECUTIVE DIRECTOR

PHONE: (207) 435-7963
FAX: (207) 435-7184
TTY: (207) 577-6690

final plan shall be designed to provide fish passage, including at low water levels, and shall not reroute flow from Second Roach Pond around the dam or unreasonably increase downstream flooding risks; c) the final plan must be implemented during the 2015 low flow periods under the supervision of the engineering firm that designs the project or another qualified engineer; and d) any work authorized by the amended permit must comply with all conditions of any such amended permit.

9. On June 2, 2015, AMC submitted an application to amend the Shoreland Alteration Permit SA 1068 in accordance with the Settlement Agreement.
10. On July 13, 2015, the LUPC issued Amendment B to Shoreland Alteration Permit SA 1068, with conditions (cross reference SA 1068-B for the full Administrative History). Condition #3 of SA 1068-B states: "All construction must be done during the period of low water between July 15 and October 1 under the supervision of the engineering firm that designed the project or another qualified engineer."
11. On August 31, 2015, AMC submitted an application to amend Condition #3 of Amendment B to Shoreland Alteration Permit SA 1068.

Proposal

12. AMC requests a revision to Condition #3 of Amendment B to Shoreland Alteration Permit SA 1068. Specifically, an extension of time from October 1, 2015 until October 15, 2015 for work to be completed during the 2015 low water period. All other conditions and provisions of SA 1068-B would remain unchanged.

Review Criteria

13. Pursuant to 12 M.R.S. § 685-B(4), the Commission may not approve an application, unless, among other things, (a) adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses and natural resources in the area likely to be affected by the proposal, (b) the proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water, and (c) the proposal is otherwise in conformance with Chapter 206-A and the regulations, standards and plans adopted pursuant thereto. The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected.

Review Comments

14. The U.S. Army Corps of Engineers has received and is processing their application to amend Permit #NAE-2011-01663 to extend the construction deadline for this project until October 15th.
15. The Maine Department of Inland Fisheries and Wildlife (IF&W) reviewed AMC's request for an extension of time from October 1, 2015 until October 15, 2015 so that work could be completed during the 2015 low water period. On or before October 1, 2015, IF&W recommended that AMC's engineer to contact the Regional Biologist in the Greenville Office to discuss the progress of the project in preparation to take the actions necessary to maintain the natural flow to Roach River during the spawning season from October 15th to November 15th. This natural flow is the flow expected to occur once the dam construction project is complete. IF&W commented the construction deadline could be extended to October 15th provided:
 - a. the flow from Second Roach Pond is maintained to be no less than the uninterrupted natural flow from the pond to the river, which is needed to support the seasonal spawning season expected from October 15th to November 15th;

- b. the natural flow from Second Roach Pond to the Roach River shall not be decreased below the natural flow rate expected during the spawning season, and that flow rate will be determined and monitored in a manner acceptable to the Department of Inland Fisheries & Wildlife;
 - c. if the pond was not sufficiently filled by October 15th to allow the natural uninterrupted seasonal flow across the fish passage, then the flow shall be supplemented via gravity flow through the temporary culverts to maintain the natural flow during the entire spawning period from October 15th to November 15th;
 - d. if the flow across the completed fish passage is sufficient to meet the natural flow as approved by IF&W on October 15th, but the final phase of construction to remove the temporary culverts was not yet complete, then the construction could continue and the culverts could be removed in accordance with the approved plans, provided during the spawning period from October 15th to November 15th the natural flow across the fish passage is not interrupted and the activity does not cause any downstream siltation problems;
 - e. if the water level is too low to provide a natural flow across the completed fish passage, but it continues to rise after October 15th to reach the elevation that allows an IF&W approved natural flow across the fish passage, then the culverts could be closed in phases provided the natural flow across the fish passage to the river was maintained and there is no downstream siltation; and
 - f. the culverts may be removed to complete construction in accordance with the approved plans, when the water level of the pond reaches the elevation that allows the IF&W approved natural flow across the fish passage to Roach River.
16. The facts are otherwise as represented in Shoreland Alteration Permit Application SA 1068 C and supporting documents.

Based upon the above Findings, the staff concludes that:

17. In accordance with Section 10.25,C of the Commission's Land Use Districts and Standards, the applicant has retained a qualified consultant to design the proposed reconstructed rock dam with fish passage. The applicant asserts that qualified staff and a qualified contractor will be retained to work with the engineering firm to reconstruct the rock dam with fish passage in accordance with the approved plans. The applicant has adequate financial resources to construct the proposed rock dam reconstruction project in a manner that would meet the criteria of all state and federal laws and standards of these rules.
18. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A. The applicant has designed the rock dam with fish passage to fit harmoniously into the existing natural pond and river environment so that there will be no undue adverse effect on existing uses and natural resources in the area; the proposal will not cause unreasonable soil erosion; and the proposal is otherwise in conformance with Chapter 206-A and the regulations, standards and plans adopted pursuant thereto.

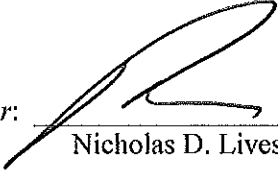
Therefore, the staff approves the application of AMC with the following conditions:

1. With the exception of Condition #3, all conditions and provisions of Amendment B to Shoreland Alteration Permit SA 1068 remain unchanged and in force.
2. Condition #3 of Amendment B to Shoreland Alteration Permit SA 1068 is hereby amended as follows. All construction must be done during the period of low water between July 15 and October 15 under the supervision of the engineering firm that designed the project or another qualified engineer. In the event that work cannot be completed on or before October 1, 2015, AMC's engineer shall contact LUPC's Greenville Office and IF&W's Regional Biologist in their Greenville Office to discuss the progress of the project and the actions needed to complete work by October 15th. If limited additional work is needed after October 15th to complete the final phase of the project it will also be allowed provided all work meets the conditions and standards of Amendment B to Shoreland Alteration Permit SA 1068 and provided:
 - a) the uninterrupted natural flow from Second Roach Pond to the Roach River shall not be decreased below the natural flow rate expected during the spawning season from October 15th to November 15th, and that flow rate will be determined and monitored in a manner acceptable to the Commission in consultation with IF&W;
 - b) if the pond is not sufficiently filled by October 15th to allow the natural uninterrupted seasonal flow across the fish passage, then the flow must be supplemented via gravity flow through the temporary bypass culverts to maintain the natural flow during the entire spawning period from October 15th to November 15th;
 - c) if the flow across the completed fish passage is sufficient to meet the natural flow as approved by the Commission in consultation with IF&W on October 15th, but the final phase of construction to remove the temporary bypass culverts is not yet complete, then the construction may continue and the culverts may be removed in accordance with the approved plans, provided during the spawning period from October 15th to November 15th the natural flow across the fish passage is not interrupted and the activity does not cause any downstream siltation problems;
 - d) if the water level is too low to provide a natural flow across the completed fish passage, but it continues to rise after October 15th to reach the elevation that allows an approved natural flow across the fish passage, then the temporary bypass culverts may be closed in phases provided the natural flow across the fish passage to the river is maintained and there is no downstream siltation; and
 - e) the culverts may be removed to complete construction in accordance with the approved plans, when the water level of Second Roach Pond reaches the elevation that allows the natural flow across the fish passage to Roach River, and the Commission determines that the removal and completion of construction will not adversely impact the seasonal spawning run.
3. Prior to commencement of construction, notify the Greenville Office of the Land Use Planning Commission.

4. Prior to continuation of construction after October 1st, obtain approval from the U.S. Army Corps of Engineers and comply with all conditions or their approval to amend Permit #NAE-2011-01663.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS SECOND DAY OF SEPTEMBER, 2015.

for:  RODERICK J. FALLA
Nicholas D. Livesay, Executive Director